



Warwickshire

Wildlife and Planning Guidance: Wildlife and the Law

This Leaflet is one of a series of 4 Wildlife and Planning Guidance Leaflets and is intended to provide useful information to assist you to campaign effectively for wildlife within your areas.

We would be pleased to receive any feedback on the Leaflets at the address below.

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1. Wildlife Legislation:

Wildlife and Countryside Act 1981 (as amended)

This is the main legislation for protection of wildlife in Great Britain. The Act is separated into four parts –

Part 1 deals with protection of wildlife. Species offered varying levels of protection by the Act are listed under different Schedules.

The most important Schedules in planning terms are

- **Schedule 1** (protected bird species),
- **Schedule 5** (other protected species of animal) and
- **Schedule 8** (protected plant species).
- **Schedule 9** lists species of plants and animals that do not naturally occur in Great Britain have become established in the wild and represent a threat to the natural fauna and flora; Section 14 of the Act applies.



Countryside and Rights of Way (CRoW) Act 2000

The section of the Act entitled 'Nature Conservation' strengthens and supplements the Wildlife and Countryside Act legislation for protected species and SSSIs (Sites of Special Scientific Interest).

It also places a duty on government departments to take biodiversity into consideration in all their functions.

Conservation (Natural Habitats &c) Regulations 1994

The 1994 Regulations transposed Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (EC Habitats Directive) into national law.

This legislation lists European protected species of animals under its **Schedule 2**. Species listed on Schedule 2 are offered a higher level of protection than those only listed on Schedules of the Wildlife and Countryside Act 1981 (as amended).



The **Conservation of Habitats and Species Regulations 2010** consolidate all the various amendments made to the Conservation (Natural Habitats, &c.) Regulations 1994.

Protection of Badgers Act 1992

Amongst other things, this legislation makes it an offence to take, kill or injure a badger or disturb its sett.

The Natural Environment and Rural Communities Act 2006 (the NERC Act)

Paragraph 40(1) of the Act places a duty on local authorities and other public bodies to consider the conservation of biodiversity when carrying out all of their functions.

2. Statutory Protected Sites:

If a site of nature conservation importance has 'Statutory Protection', it means that it receives protection by means of certain legislation in recognition of its biodiversity and/or geological value.

Sites of Special Scientific Interest (SSSIs)

SSSIs are designated under the Wildlife & Countryside Act 1981 where they support habitats and/or species of national importance.

There are 62 SSSIs in Warwickshire.

SSSI represent our best sites for wildlife and geology. Well over half, by area, are internationally important and many play an important part in local culture and economies or provide wonderful opportunities for people to enjoy wildlife and the landscape. The national wildlife and geological features of SSSI's are irreplaceable parts of our national heritage.

These are protected in order to preserve their importance, and to prevent damage and development. We have many incidents where these sites are damaged through illegal off road, dumping waste and development.

More information about SSSIs can be found on the Natural England website.

<https://www.gov.uk/protected-or-designated-areas#sites-of-special-scientific-interest>

0845 600 3078

Special Protection Areas (SPAs)

SPAs are areas which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds found within European Union countries.

They are designated under the European 'Birds Directive 1979'.

More information about SPAs can be found on the Natural England website. (There are no SPAs in Warwickshire, Solihull or Coventry)

Ramsar Sites

The Ramsar Convention is an international agreement signed in Ramsar, Iran, in 1971, which provides for the conservation and good use of wetlands. The UK Government ratified the Convention and designated the first Ramsar sites in 1976.

Special Areas of Conservation (SACs)

SACs are designated where they support internationally important habitats and/or species listed in the EC Habitats Directive.

There is only 1 SAC in Warwickshire at Ensor's Pool near Nuneaton which is associated with the White-Clawed Crayfish.

National Nature Reserves (NNRs)

NNRs are designated under section 35 of the Wildlife & Countryside Act 1981. They are owned by or managed through agreements with Natural England. (There are no NNRs in Warwickshire, Solihull or Coventry).



Local Nature Reserves (LNRs)

All district and county councils have powers to acquire, declare and manage LNRs. Town and parish councils can create LNRs if the district council has given them the power to do this.

To qualify for LNR status, a site must be of importance for wildlife, geology, education or public enjoyment. LNRs must be controlled by the local authority through ownership, lease or agreement with the owner. There are 21 LNRs in Warwickshire.

More information about SPAs, Ramsar Sites, SACs, NNRs and LNRs can be found on the Natural England website.

<https://www.gov.uk/protected-or-designated-areas>

3. Non-Statutory Sites:

Local Wildlife Sites (LWS)

Local Wildlife Sites are sites with 'substantive nature conservation value'. They are defined areas, identified and selected for their nature conservation value, based on important, distinctive and threatened habitats and species with a national, regional and (importantly) a local context.

<https://www.gov.uk/protected-or-designated-areas>

Get Involved...

If a perceived threat to these sites is as a result of a proposed development, contact the Planning Officer dealing with the application at your LPA to ensure adequate procedures have been followed. You may also wish to contact Natural England as they are the authority for statutory designations.

Found on both public and private land, LWSs vary in size and shape from small ponds and copses and linear features such as hedgerows, road verges and water courses to much larger areas of habitat such as ancient woodlands, heaths, wetlands and grassland. They support both locally and nationally threatened wildlife, and many sites will contain habitats and species that are priorities under the county or **UK Biodiversity Action Plans (BAP)**.

Collectively they play a critical role in the conservation of the UK's natural heritage by providing essential wildlife refuges in their own right and by acting as stepping stones, corridors and buffer zones to link and protect other site networks and the open spaces of our towns and countryside.

There are currently a number of different terms in use to describe Local Wildlife Sites, including Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNICs) and County Wildlife Sites.

They are usually selected by the relevant Wildlife Trust, along with representatives of the local authority and other local wildlife conservation groups.

The LWS selection panel, select all sites that meet the assigned criteria, unlike Sites of Special Scientific Interest (SSSIs), which for some habitats are a representative sample of sites that meet the national standard. Consequently, many sites of SSSI quality are not designated and instead are selected as LWSs. Consequently, LWSs can be amongst the best sites for biodiversity. It is essential, therefore, that the different status assigned to LWSs should not lessen the perception of their importance and the vital role they play in conserving our natural heritage.

Defra published **Local Sites: Guidance on their identification, selection and management in 2006**.

<http://archive.defra.gov.uk/rural/documents/protected/localsites.pdf>

Biodiversity Monitoring

Local authorities provide data on local biodiversity direct to Defra, so the proportion of sites under positive conservation management can be assessed.

The data can be found at:

<http://www.defra.gov.uk/statistics/environment/biodiversity/>

In 2010 the Government abolished the **National Indicator (NI197)** and replaced it with the **single data list** which is a list of all the datasets that local government must submit to central government. The data previously collected under NI197 remains a data requirement against which local authorities will be required to report annually.

<https://www.gov.uk/government/policies/making-local-councils-more-transparent-and-accountable-to-local-people/supporting-pages/single-data-list>



Living Landscape

The creation of a Living Landscape has been championed by The Wildlife Trusts since 2006. Rather than protecting small pockets of land for wildlife, the focus of **Living Landscapes** is on nature conservation on a landscape scale, to help create a resilient and healthy environment rich in wildlife with ecological security for people.

<http://www.warwickshirewildlifetrust.org.uk/a-living-landscape>

Additionally **Warwickshire Wildlife Trust** manage over 60 Warwickshire Wildlife Trust Nature Reserves throughout Warwickshire, Coventry and Solihull. These areas of wildlife-rich habitat are actively managed by our conservation team to promote and sustain the species which live there.

Most nature reserves are open to the public for free all year round and we offer a programme of events and activities on some of these sites.

4. Protected Species in Warwickshire:

European Protected Species (EPS) are protected under the Conservation (Natural Habitats &c) Regulations 1994.

EPS found in Warwickshire include:

- All species of bat;
- Great crested newt;
- Otter;
- Dormouse and
- White-clawed crayfish.

Other species that are protected under the Wildlife and Countryside Act 1981 (as amended) and the Protection of Badgers Act 1992 and that are often encountered through the planning process include:

- Water vole
 - Barn owl
 - Grass snake
 - Slow worm
 - Common lizard
 - Badger.
- In the case of birds such as the barn owl that are listed on Schedule 1 of the Act, it is an offence even to disturb the birds when at or near the nest.

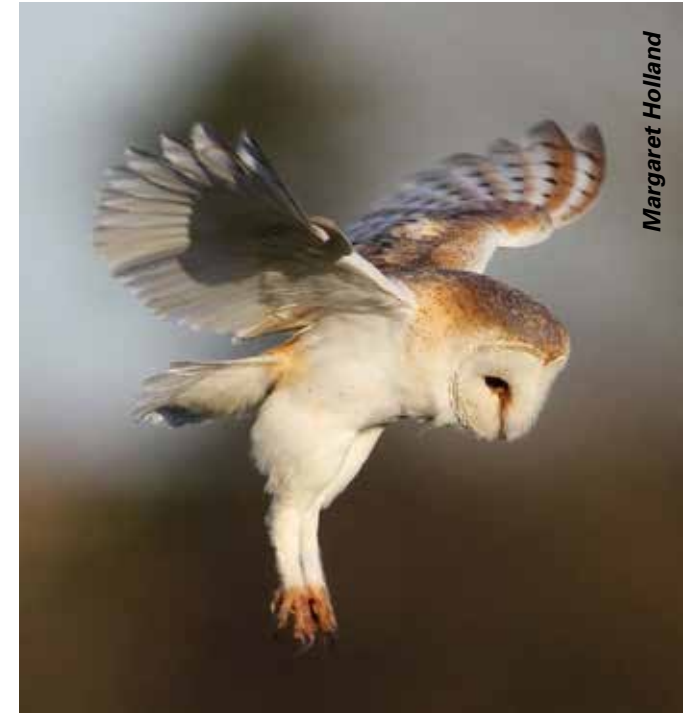
The existence and requirements of these species must be taken into account before planning permission can be granted. The presence of a protected species is unlikely to prevent a development taking place, however it will mean that the developer will have to take special measures to ensure that the species is protected.

Mitigation often involves timing of works to avoid sensitive periods or employing techniques to reduce the risk of harm. **Compensation** or **enhancement** may be required to ensure that the site (or wider area) remains suitable for use by the species. It is preferable to retain the species on the site wherever possible, translocation to another suitable location should be a last resort.

Where works are likely to affect a protected species, a licence may be required from Natural England to permit works.

Natural England has produced **Standing Advice** for local authorities on protected species to help them decide when there is a 'reasonable likelihood' of protected species being present, as well as advice on survey and mitigation.

The **Standing Advice** is a material consideration in the determination of planning applications.



Margaret Holland

The Standing Advice for protected species can be viewed on Natural England's website:

<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals#standing-advice-for-protected-species>

Lists of legally protected species are available on the UK's Joint Nature Conservation Committee's website:

<http://jncc.defra.gov.uk/>

Birds

All birds, their nest and eggs are protected by the **Wildlife & Countryside Act 1981**, and it is an offence to damage or destroy an active nest or prevent parent birds access to their nests.

It is an offence to be in possession of a British wild bird unless it has been bred in captivity. It wears a special ring to indicate this.

Illegally caught wild birds are traded both in the UK and internationally. Birds of prey are particularly sought after and every year cases come to court where people are accused of taking birds from the wild, taking eggs, shooting, trapping or poisoning birds. The vast majority of British wild birds are specifically protected by law.

If you want to know more about the laws protecting birds in Britain, the RSPB publishes a more detailed guide Wild Birds and the Law.

For more information you can contact:

RSPB
The Lodge
Sandy, Bedfordshire
SG19 2DL
01767 680 551
www.rspb.org.uk or www.rspb.org.uk/groups/coventryandwarwickshire

Bats

The legislation that protects them is mainly under the Wildlife & Countryside Act (amended) and the Conservation (Natural Habitats, &c.) Regulations 1994, which protects bats themselves as well as their roosts. They are also protected from disturbance whilst in their habitat.

The biggest threat to bats is that of development, tree work and DIY. As with other species, there are certain acts that can be carried out under licences issued by the Statutory Nature Conservation Organisations, and they can allow development under strict guidelines and under the guidance of bat workers.

A great deal of homes have bats living in them, either using them as a summer or winter roosts. If you are planning to do any work on the roof or loft of your house, check first to see if bats are present. If they are, you must contact Natural England for advice, before you start work.

Natural England
Foundry House,
3 Millsands, Riverside Exchange
Sheffield
S3 8NH
08456 003 078
www.naturalengland.org.uk

Badgers

The badger is fully protected by the law. The population within Warwickshire is estimated to be run into several thousands. Badgers and their setts are fully protected by the Protection of Badgers Act 1992.

Anyone who takes, kills or injures a badger, or who interferes with a badger sett, can be sent to prison for six months or fined up to £5000.

Badger groups play a vital role in protecting badgers. They are made up of volunteers who work with the police and the RSPCA to enforce the laws protecting badgers. If you would like to join your local group, please contact:

The Badger Trust
P.O.Box 708
East Grinstead
RH19 2WN
08458 287 878
www.nfbg.org.uk



Other Protected Species

There are a variety of other species that afford protection, due their threatened existence. Otters for example, also suffer from the threat of development.

They are protected under **Schedule 5** of the **Wildlife & Countryside Act**, the same listings as bats.

The Otter is making a come back in some areas but, as they re-establish themselves, they will at times come into conflict with humans.

The Wild Mammals Act protects all wild mammals, such as hedgehogs, to ensure that they are not caused any unnecessary suffering.

Game Laws protect our game stocks, from pheasants to fish and deer. Today's poachers are well organised with modern radio communications, and firearms, taking large numbers of target species in a very short time. They are not concerned how many animals they cause suffering to in the process of taking their quarry.

Plants

There are many plants listed under the international listings as protected species, and the **Wildlife & Countryside Act** also protects our native plants.

It is an offence to uproot any wild plant without permission, from snowdrops to pondweed, they are all protected. It is also an offence to pick or damage other plants which are included under **Schedule 8** of the **Wildlife & Countryside Act**.



5. Wildlife Crime:

In the UK, Wildlife Crime covers offences that are committed against flora and fauna, both native and non-native species, which includes the habitats that they use and reside.

To learn more information about Wildlife Crime, click the link below.

http://www.warwickshire.police.uk/crimeprevention/wildlifecrime/index_html

Warwickshire Police takes wildlife crime seriously and will deal with any offences in relation to our flora and fauna.

Warwickshire Police,
PO Box 4,
Leek Wootton,
Warwick.
CV35 7QB

01926 415 000

In the case of an emergency or a crime in action, please dial 999.

6. Biodiversity Action Plan:

Biodiversity Action Plan (BAP) species and habitats have come out of a process beginning in 1992 in Rio de Janeiro, when the UK was one of 150 countries to sign up to the Convention on Biological Diversity .

This led to the development of BAPs for species and habitats at the national, regional and local level. The Countryside and Rights of Way Act (2000) made BAPs a material consideration when assessing planning applications, which means they have to be taken into account.

Warwickshire, Coventry & Solihull Local Biodiversity Action Plan

The links below take you to the latest updates to the Warwickshire, Coventry and Solihull Biodiversity Action Plans.

There are 52 biodiversity action plans, 28 for our vulnerable species and 24 for our characteristic habitats, ranging from urban and rural settlement to woodlands and wetlands.

<http://www.warwickshirewildlifetrust.org.uk/LBAP2014>

7. Warwickshire's Biodiversity:

Warwickshire is situated in the heart of the country, with gentle rolling hills and flat valley floors. It has a varied geological make-up that continues to mould the ecological and cultural landscape either directly or through man's activities.

It has two major rivers whose catchments meet in the centre and connect the north with the south. These are the **Avon**, which flows into the Severn towards the Irish Sea and the **Tame/Anker** that joins the Trent before entering the North Sea.

Warwickshire's wildlife, like its humans, migrate out of, into and through the county, yet there are some that never leave. There are "northern" and "southern" species that are resident in Warwickshire and many others that are seasonal visitors. Like humans they all need a place to stay. In recent years the impact of climate change is becoming more important with new species moving in extremely quickly. This plus agricultural changes and man's need for housing, energy and water all play a part in affecting the county's biodiversity. Thus, sadly, there are species that are moving out and becoming extinct in the county.



In order to maintain a viable natural environment we must locate, protect and enhance the habitats and species we have.

We must identify and fill gaps by restoring and creating appropriate habitats. We must provide a resilient, connected landscape that can adapt to known and unforeseen changes. We must maintain a Warwickshire where both wildlife and humans wish to live.

8. Habitat Biodiversity Audit Partnership for Warwickshire, Coventry and Solihull:

In 1995, the six local authorities within the County of Warwickshire, plus Solihull and Coventry unitary authorities, English Nature (Natural England) and the Environment Agency established the Habitat Biodiversity Audit (HBA) Partnership under the management of Warwickshire Wildlife Trust and based at Warwickshire County Council's Ecological Services offices in Warwick. The HBA's remit was to survey every field and boundary in the sub-region to provide up-to-date biodiversity data. The data is held on a Geographical Information System (GIS), which provides high quality coded maps and linked site notes with a powerful tool for interpretation and statistical analysis.

It is the longest continuous running survey of its kind in the country and had European Communities recognition in 2006 as an example of good practice as an environmental partnership.

Warwickshire Wildlife Sites Project

The HBA partnership also manages the **Local Wildlife Sites project** for Warwickshire, Coventry and Solihull as a partnership with the local planning authorities, the County Council and the Wildlife Trust. Local Wildlife Sites information can be found at the WBRC, HBA and other contributing Partners including the Wildlife Trust. Solihull MBC has their own in-house ecological planning system which is separate to WBRC. (The permission to distribute the actual data to third parties rests with the HBA).

The **Wildlife Sites Project** is responsible for site selection in collaboration with the local authorities and undertakes the detailed site survey generally referred to as a Phase 2 habitat survey, against a set of criteria based on the Joint Nature Conservancy Council (JNCC) national criteria for the selection of biological Sites of Special Scientific Interest (SSSI). These have been expanded to reflect a local authority's role in nature conservation including local community characteristics.

Habitat Biodiversity Audit c/o Ecological Services, Economic Growth, Warwickshire County Council, PO Box 43 CV34 4SX.

hba@warwickshire.gov.uk **01926 412 197.**
<http://www.warwickshirewildlifetrust.org.uk/habitat-biodiversity-audit>

HBA Caveat - Copyright of the data remains the property of the Habitat Biodiversity Audit for Warwickshire, Coventry and Solihull. While every effort has been made to ensure that the data is accurate in accordance with Phase 1 habitat survey standards the project cannot guarantee its accuracy or accept responsibility for any changes to landuse or habitat that may have occurred since the survey was undertaken.

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9. Warwickshire Biological Records Centre:

The WBRC was established in 1974 and is one of a national network of Local Record Centres. WBRC keeps the wildlife database for our area.

The WBRC has close working relationships with amateur experts and recorder groups and holds information on over 2,400 sites and distribution data on some 15,000 individual species covering Warwickshire, Coventry and Solihull.

As a member of the public you can use WBRC's services free of charge to see what wildlife has been recorded in your vicinity.

Their contact details are:

Warwickshire Biological Records Centre
Ecological Services, Economic Growth,
Warwickshire County Council, PO Box 43
CV34 4SX.

wbrc@warwickshire.gov.uk

01926 418 060

<http://heritage.warwickshire.gov.uk/volunteer/volunteer-biological-records-team/>